IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24767 OF 2006

DATED:04.12.2006

Between:

N.N.Chari petitioner

And

The Depot Manager,
APSRTC, Metpally Depot
Karimnagar and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 24767 OF 2006

ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Industrial Tribunal cum Labour Court, Godavarikhani in I.D. No. 122 of 2003 and to set aside the same and to direct the respondent corporation to reinstate the petitioner into service with continuity of service, attendant benefits and full backwages.

The petitioner herein is working as conductor in the respondent corporation. On 15.4.2001, while he was conducting the bus bearing No.AP 10Z 9086 on route Metpalli to Hyderabad, a check was conducted and certain irregularities were noticed. Based on the report of the checking officials, a charge sheet dated 24.4.2001 was issued to which the petitioner submitted his explanation. Having not satisfied with the explanation offered by the petitioner, an inquiry was ordered and based upon the inquiry report, the petitioner was removed from service by proceedings dated 1.9.2001. The appeal and review petition filed by the petitioner were rejected on 3.4.2001 and 21.4.2002. Aggrieved by the removal order, petitioner raised an Industrial Dispute in I.D. No. 122 of 2003 on the file of the Industrial Tribunal cum Labour Court at Godavarikhani.

Before the Labour Court, both the parties did not adduce any oral evidence. On behalf of the petitioner documents in Ex.W1 to W6 were marked and on behalf of the respondent management documents in Ex.M1 to M30 were marked. The Labour Court on consideration of the matter passed an award dated 19.11.2004 dismissing the petition. Questioning the said award, the present writ petition is filed.

Learned counsel for petitioner submitted that the punishment of removal from service is disproportionate to the charges leveled against the petitioner and without considering the same, the Labour Court erred in dismissing the petition granting no relief to the petitioner.

On the other hand, learned standing counsel for respondent corporation submitted that for the proved misconduct and keeping in view the earlier conduct

of the petitioner, the punishment of removal from service is just and the same needs no interference.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

Until and unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty. In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, the checking officials found that the petitioner has re-issued the tickets. The passenger statement is to the effect that the conductor has given the subject tickets after collecting the amount and even the petitioner has also accepted in his spot explanation Ex.M4 that he has issued the subject tickets to said passengers. The petitioner has not adduced any oral evidence to substantiate his case. The Labour Court having regard to the documentary evidence and the statement of the Checking Official and the passengers' statement, held that the charge leveled against the petitioner is proved. For the proved misconduct and keeping in view the earlier conduct of the petitioner, the Labour Court passed an award dismissing the petition. This Court does not see

any reason to interfere with the findings so recorded by the Labour Court, based on evidence.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

04.12.2006
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THE HON'BLE MR JUSTICE N.V. RAMANA

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[1] 2005 (3) SCC 254